

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RAHMEEK YOUNGER,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER JOSE M.  
SANTIAGO, Shield No. 30357, POLICE OFFICER  
DENNIS W. HAYS, Shield No. 18716, POLICE  
OFFICER JONATHAN FOLEY, Shield No. 4895, and  
SGT. BENJAMIN BENSON, Shield No. 90342,

Defendants.

**ANSWER TO THE  
COMPLAINT ON BEHALF  
OF DEFENDANT HAYS**

Jury Trial Demanded

07 CV 6634 (JGK)

----- X  
Defendant Dennis Hays,<sup>1</sup> by his attorney, Michael A. Cardozo, Corporation  
Counsel of the City of New York, for his answer to the complaint, respectfully alleges, upon  
information and belief, as follows:

1. Denies the allegations set forth in paragraph “1” of the complaint, except  
admits that plaintiff purports to bring this action as stated therein.
2. Denies the allegations set forth in paragraph “2” of the complaint.
3. Denies the allegations set forth in paragraph “3” of the complaint, except  
admits that plaintiff purports to invoke the jurisdiction of this Court as stated therein.
4. Denies the allegations set forth in paragraph “4” of the complaint, except  
admits that plaintiff purports to invoke the pendent jurisdiction of this Court as stated therein.

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<sup>1</sup> Defendants City of New York, Santiago, Foley and Benson filed their Answer to the Complaint on January 15, 2008.

5. Denies the allegations set forth in paragraph “5” of the complaint, except admits that a document purporting to be a notice of claim was received by the Office of the Comptroller.

6. Denies the allegations set forth in paragraph “6” of the complaint, except admits that the purported claims have not been settled or adjusted.

7. Denies the allegations set forth in paragraph “7” of the complaint, except admits that this action was filed on July 24, 2007, and that plaintiff purports to proceed as stated therein.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “8” of the complaint.

9. Denies the allegations set forth in paragraph “9” of the complaint, except admits that defendants Santiago, Benson, and Foley are employed by the City of New York, and that defendant Hays was employed by the City of New York and that plaintiff purports to proceed as stated therein.

10. Denies the allegations set forth in paragraph “10” of the complaint, except admits that defendants Santiago, Hays, Foley and Benson were assigned to the 90<sup>th</sup> Precinct on or about June 28, 2006.

11. Denies the allegations set forth in paragraph “11” of the complaint, except admits that the City of New York is a municipal corporation duly organized and operating under the laws of the State of New York and that it maintains a Police Department.

12. Denies the allegations set forth in paragraph “12” of the complaint.

13. Denies the allegations set forth in paragraph “13” of the complaint.

14. Denies the allegations set forth in paragraph “14” of the complaint.

15. Denies the allegations set forth in paragraph "15" of the complaint.

16. Denies the allegations set forth in paragraph "16" of the complaint.

17. Denies the allegations set forth in paragraph "17" of the complaint.

18. Denies the allegations set forth in paragraph "18" of the complaint.

19. Denies the allegations set forth in paragraph "19," except admits that plaintiff purports to proceed as stated therein.

20. In response to the allegations set forth in paragraph "20" of the complaint, defendant repeats and realleges paragraphs "1" through "19" of this answer as though fully set forth herein.

21. Denies the allegations set forth in paragraph "21" of the complaint.

22. Denies the allegations set forth in paragraph "22" of the complaint.

23. Denies the allegations set forth in paragraph "23" of the complaint.

24. Denies the allegations set forth in paragraph "24" of the complaint.

25. Denies the allegations set forth in paragraph "25" of the complaint.

26. Denies the allegations set forth in paragraph "26" of the complaint.

27. Denies the allegations set forth in paragraph "27" of the complaint, except admits that plaintiff purports to proceed as stated therein.

28. In response to the allegations set forth in paragraph "28" of the complaint, defendant repeats and realleges paragraphs "1" through "27" of this answer as though fully set forth herein.

29. Denies the allegations set forth in paragraph "29" of the complaint.

30. Denies the allegations set forth in paragraph "30" of the complaint.

31. Denies the allegations set forth in paragraph "31" of the complaint.

32. Denies the allegations set forth in paragraph “32” of the complaint.=m except admits that plaintiff purports to proceed as stated therein.

33. Denies the allegations set forth in paragraph “33” of the complaint, except admits that plaintiff purports to proceed as stated therein.

34. In response to the allegations set forth in paragraph “34” of the complaint, defendant repeats and realleges paragraphs “1” through “33” of this answer as though fully set forth herein.

35. Denies the allegations set forth in paragraph “35” of the complaint.

36. Denies the allegations set forth in paragraph “36” of the complaint.

37. Denies the allegations set forth in paragraph “37” of the complaint.

38. Denies the allegations set forth in paragraph “38” of the complaint, except admits that plaintiff purports to proceed as stated therein.

39. Paragraph “39” of the complaint sets forth a demand for a jury trial, rather than an averment of fact, and accordingly no response is required.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

40. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

41. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor has defendant violated any Act of Congress providing for the protection of civil rights.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

42. At all times relevant to the acts alleged in the complaint, defendant Hays acted reasonably in the proper and lawful exercise of his discretion.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:**

43. Plaintiff's state law claims may be barred for failure to comply with New York General Municipal Law §§ 50-e, h, and i.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:**

44. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct or the culpable or negligent act of third parties and was not the proximate result of any act of the defendant.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE:**

45. The individual defendant Hays has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore is protected by qualified immunity.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE:**

46. There was probable cause to arrest and prosecute plaintiff.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE:**

47. This action is barred, in whole or in part, by the applicable statute of limitations.

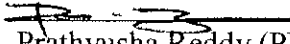
**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE:**

48. Plaintiff provoked any incidents.

**WHEREFORE**, defendant Hays requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
February 15, 2008

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for Defendants City, Santiago, Foley,  
Benson and Hays  
New York, New York 10007  
(212) 788-0963

By:   
Prathyusha Reddy (PR 5579)  
Assistant Corporation Counsel  
Special Federal Litigation Division

TO: **By ECF and HAND**  
Edward Friedman, Esq.  
Attorney for Plaintiff  
26 Court Street, Suite 1903  
Brooklyn, NY 11242

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<b>ANSWER ON BEHALF OF DEFENDANT HAYS</b>	
<p style="text-align: center;"><b>MICHAEL A. CARDOZO</b>  <i>Corporation Counsel of the City of New York</i>  <i>Attorney for Defendants City, Santiago, Foley,</i>  <i>Benson and Hays</i>  <i>100 Church Street</i>  <i>New York, New York 10007</i></p> <p style="text-align: center;"><i>Of Counsel: Prathyusha Reddy</i>  <i>Tel: (212) 788-0963</i>  <i>NYCLIS No.</i></p>	
<i>Due and timely service is hereby admitted.</i>	
<i>New York, N.Y. .... , 200...</i>	
<i>..... Esq.</i>	
<i>Attorney for .....</i>	